

CAUSE NO. 2019-06610

JANE DOE	§	THE DISTRICT COURT OF
	§	
v.	§	HARRIS COUNTY, TEXAS
	§	
BRENNANS OF HOUSTON, INC. d/b/a	§	
BRENNANS OF HOUSTON	§	80 <sup>TH</sup> JUDICIAL DISTRICT

DEFENDANT'S ORIGINAL ANSWER

COMES NOW CHRISTOPHER LOCKHART ("Defendant") and files this his Original Answer to the Plaintiff's Second Amended Original Petition and would show as follows:

I. GENERAL DENIAL

1. Subject to such stipulations as may hereafter be made, Defendant asserts a general denial as is authorized by Rule 92 of the Texas Rules of Civil Procedure, and Defendant respectfully requests that Plaintiff be required to prove the charges and allegations against Defendant by a preponderance of the evidence as is required by the Constitution and laws of the State of Texas.

II. AFFIRMATIVE DEFENSES

2. Pleading further and without waiving the foregoing, Defendant affirmatively alleges that no act or omission, if any, of Defendant, constituted negligence, or violations of the Texas Penal Code as alleged, or was the proximate cause of any injury or damage to Plaintiff.

3. Pleading further, Defendant asserts that Plaintiff's damages, if any, were not caused by any negligence of Defendant, that Defendant owed no duty to Plaintiff that was breached, and further that Plaintiff has sustained no legal injury or damage proximately caused by the conduct of Defendant.

4. Pleading further and without waiving the foregoing, Defendant would show that the Plaintiff was guilty of acts or omissions of negligence, each of which, separately or concurrently contributed

to or was the proximate cause or the sole proximate cause of the alleged occurrence made the basis of this suit.

5. Pleading further and without waiving the foregoing, Defendant would show that Plaintiff's' alleged damages were wholly or partially caused by third parties over which Defendant had no control and/or no duty to control.

6. Pleading further, and without waiver of the above matters, Defendant specifically pleads that the damages and/or injury of which Plaintiff complains, if any, were caused by unforeseeable, independent, intervening or superseding events beyond the control and unrelated to the conduct of Defendant.

8. Pleading further and without waiving the foregoing, Defendant asserts that no action or inaction, if any, by Defendant was committed knowingly or intentionally, and therefore Plaintiff is not entitled to an award of exemplary damages under these claims.

9. Defendant denies that he engaged in any grossly negligent, willful, wanton, malicious or consciously indifferent conduct, or that it in any way proceeded with reckless indifference to the rights or welfare of the Plaintiff.

10. Pleading further, and without waiver of the above matters, this Defendant specifically pleads that the Plaintiff is not entitled to an award of exemplary damages. Plaintiff has not sufficiently alleged conduct constituting malice and this Defendant denies any act or omission that involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others; or that they had actual, subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to the rights of Plaintiff. Further, any award of exemplary and/or punitive damages are subject to the limits imposed by Chapter 41 of the Texas Civil Practice & Remedies Code.

11. Defendant asserts that pursuant to Texas Rule of Civil Procedure 193.7, he intends to utilize all documents produced by any party herein for all purposes.
12. Defendant asserts that all or part of Plaintiff's claims are barred by statute of limitations.
13. Defendant asserts that no separate cause of action exists under Texas law.
14. Defendant demands a trial by jury.

WHEREFORE Defendant, prays that it be released, discharged and that Plaintiff take nothing by reason of this suit and for all other relief to which he may be entitled.

Respectfully submitted,

MAGENHEIM & ASSOCIATES

*/s/ Alan N. Magenheim*

By: \_\_\_\_\_

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ATTORNEYS FOR DEFENDANT  
CHRISTOPHER LOCKHART

#### CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on all opposing counsel of record on the 6<sup>th</sup> day of May 2019 in accordance with the Texas Rules of Civil Procedure.

*/s/ Alan N. Magenheim*

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Alan N. Magenheim